

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

WEST VIRGINIA DEPARTMENT OF)
HEALTH AND HUMAN RESOURCES,)
BUREAU FOR MEDICAL SERVICES)
)
Plaintiff,)
v.)
UNITED STATES DEPARTMENT OF)
HEALTH AND HUMAN SERVICES,)
)
and)
KATHLEEN SEBELIUS, Secretary of the)
United States Department of Health and)
Human Services, in her official capacity,)
)
Defendants.)
)

Civ. No. 2:11-CV-00327
Judge Thomas E. Johnston

ORAL ARGUMENT REQUESTED

MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff West Virginia Department of Health and Human Resources, Bureau for Medical Services, hereby moves for summary judgment. For the reasons set forth in the accompanying Memorandum in Support of Plaintiff's Motion for Summary Judgment, there is no genuine issue of material fact, and Plaintiff is entitled to judgment as a matter of law. Plaintiff therefore asks this Court to enter judgment in its favor.

A proposed order is attached to this motion.

Respectfully submitted,

/s/ Mary McQuain

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September 23, 2011

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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I hereby certify that I have mailed the document by United States Postal Service to the following non-CM/ECF participants:

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